

## BOARD OF COUNTY COMMISSIONERS AGENDA ITEM SUMMARY

Meeting Date: June 15, 2005 - Marathon

Division: County Attorney

Bulk Item: Yes X No     

Department: \_\_\_\_\_

**AGENDA ITEM WORDING:**

Approval of a resolution to solve a property issue with developers of an affordable housing project, and directing staff to finalize the acquisition from Langston and Wright Enterprises of fee simple title to approximately 1100 to 1200 square feet abutting Center Street at RE # 114790, at a cost not to exceed \$41,000.

**ITEM BACKGROUND:** In or about 1999, County paved over a portion of Lot 60 Summerland Yacht Harbor Subdivision, according to Plat Book 2, page 142, Public Records of Monroe County. County plans for the road improvement clearly show the existing right-of-way boundary line and the proposed pavement encroaching onto the adjacent private property in order to provide a road which accommodates the mobile home residents on the other side of the street. During the course of planning an affordable housing project and applying for permits for seven affordable units, the developers discovered the forgoing information. Although County has a statutory defense to a potential takings claim, the developers have incurred additional costs in trying to put an affordable project on the affected land due to the decrease in size created by the pavement. The developers met with the director of engineering and an assistant county attorney to seek a solution in order to avoid additional costs on both sides. Staff has concluded that the proposed purchase of fee simple title at the costs incurred by developers will be the most efficient and least costly manner to resolve the problem and it will facilitate the timely construction of the affordable units. The developers had incurred \$38,200 as of the date of the meeting with staff. However, staff has required a metes and bounds legal description which developers will have to obtain at additional cost from their surveyor.

**PREVIOUS RELEVANT BOCC ACTION:**

None.

### CONTRACT/AGREEMENT CHANGES:

None

**STAFF RECOMMENDATIONS:**

### Approval

**TOTAL COST:** \$41,000

**BUDGETED:** Yes \_\_\_\_\_ No **X**

**COST TO COUNTY:** 41,000

**SOURCE OF FUNDS:**REVENUE PRODUCING: Yes \_\_\_ No X AMOUNT PER MONTH \_\_\_\_\_ Year \_\_\_\_\_

**APPROVED BY:** County Atty X OMB/Purchasing      Risk Management     

**DIVISION DIRECTOR APPROVAL:**

(TYPE NAME HERE)

**DOCUMENTATION:**      Included \_\_\_\_\_      To Follow \_\_\_\_\_      Not Required \_\_\_\_\_

**DISPOSITION:** \_\_\_\_\_

AGENDA ITEM #

**RESOLUTION NO. \_\_ -2005**

**A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF MONROE COUNTY, FLORIDA APPROVING ACQUISITION OF FEE SIMPLE TITLE TO A PORTION OF LOT 60, SUMMERLAND YACHT HARBOR SUBDIVISION TO FACILITATE FOR AFFORDABLE HOUSING.**

**WHEREAS**, in or about 1999, the County paved a segment of Lot 60, Summerland Yacht Harbor Subdivision, according to the Plat Book 2, Page 142, Public Records of Monroe County, during road improvements to center Street, Summerland Key; and

**WHEREAS**, the pavement onto Lot 60 was due in part to the proximity of mobile homes and/or trailers to the south of Center Street, and the safety factor for children living in those accommodations; and

**WHEREAS**, the current owners of Lot 60 have applied for permits for an affordable housing project to provide seven single family homes; and

**WHEREAS**, the Board of County Commissioners of Monroe County have adopted ordinances and resolutions to encourage the development of affordable housing; and

**WHEREAS**, the prompt completion of the project is deemed to be in the interest of the health, safety and welfare of the residents of Monroe County; and

**WHEREAS**, the project has incurred additional costs due to adjustments and additional buffer materials required by the decrease in lot size caused by the pavement; and

**WHEREAS**, the payment proposed below will assist the developer in completing the affordable housing project in a timely manner;

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MONROE COUNTY, THAT:**

1. The County shall pay an amount not to exceed \$41,000 to Langston and Wright Enterprises upon receipt a warranty deed for that portion of Lot 60, Summerland Yacht Harbor Subdivision as is determined by a survey to have been paved and which is estimated at 1100 to 1200 square feet in area, and the execution of a release from any further possible liability for the pavement placed on Lot 60 by the County, and the determination of the amount of permit fees which would be required by the County's rules and regulations for the project. The amount paid shall be \$38,200 plus such

additional costs as are incurred to acquire a metes and bounds description for purposes of the transfer of title, and other costs associated with the transfer of the property to County.

2. That some or all of the payment may be decreased by the waiver of any permit or other fees which County would otherwise charge to Langston and Wright Enterprises for the development of Lot 60. The amount of decrease in payment shall be the same as the amount of fees waived.

3. That this Resolution shall become effective upon the date of its adoption herein.

PASSED AND ADOPTED by the Board of County Commissioners of Monroe County, Florida at a regular meeting of said board held on June 15, 2005.

Mayor Spehar \_\_\_\_\_  
Mayor Pro Tem McCoy \_\_\_\_\_  
Commissioner Nelson \_\_\_\_\_  
Commissioner Neugent \_\_\_\_\_  
Commissioner Rice \_\_\_\_\_

BOARD OF COUNTY COMMISSIONERS  
OF MONROECOUNTY, FLORIDA

(SEAL)

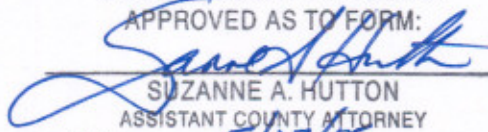
ATTEST:

DANNY L. KOLHAGE, CLERK

By: \_\_\_\_\_  
Deputy Clerk

By: \_\_\_\_\_  
Mayor Dixie M. Spehar

MONROE COUNTY ATTORNEY  
APPROVED AS TO FORM:

  
SUZANNE A. HUTTON  
ASSISTANT COUNTY ATTORNEY  
Date 5/27/05

call  
797-0177

Miles Wright  
LAW Enterprises  
21054 7<sup>th</sup> Ave.  
Summerland Key

Dave Koppel  
County Engineer  
100 Simonton Street 2-216  
Key West, Florida

Reference: Summerland Project

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Per our meeting on September 22, 2004 regarding the Summerland Key project, AKA Lot 60, reference seven affordable housing units. The issue was the Center Street encroachment onto the aforementioned property.

The solutions to the encroachment issue were to either grant an easement or have the County purchase the property outright. The only other solution would be to make use of the current property lines and develop the project into a large portion of Center Street.

A question raised at the meeting was whether an easement would affect the density of the project and not allow seven units to be developed on the site. On October 1, 2004 I met with Aref Joulani, Senior Administrator of Development Review, regarding the density issues, which he said would be discussed and resolved with the Director of Planning, Marlene Conaway. On October 6, 2004 both of the aforementioned individuals produced an Addendum to the original Letter of Understanding, which stated that the density of the project would not be adversely affected by providing an easement on the Center Street side.

Although the density issue may not be detrimental, the size of the project as a whole will be greatly affected. Considerable cost and planning have taken place to engineer the project thus far. If the easement is granted the County will require a significant buffer zone, which will incorporate ten feet from the edge of pavement from Center Street, which will significantly effect the cost. A variance would then be requested to redact a portion of the buffer zone which the County has suggested will require increased foliage to offset the minimal buffer zone.

At this point we are considering remunerative compensation for providing the County with an easement to the property and release our corporation from any liability associated with the parcel of property. Attached is a list of expenditures associated with the easement issues.

In a recent conversation with Tiffany at the building department she stated that we would be given the permits for the project along with cespit allocations within the following month.

A copy of the Addendum to the Letter of understanding is attached for consideration. Thank you for your time and consideration in this matter.

Expenditures as a result of easement issues:

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1. Land Acquisition: Present value \$500,000.00 percentage of land lost based on current value.	\$ 15,500.00
2. Engineering (Perez Company)	\$ 5,500.00
3. Representation Craig Company	\$ 1,000.00
4. Landscaping (Increased buffer zone)	\$ 12,000.00
5. Exotic tree removal over Center street (%)	\$ 3,000.00
6. Waste removal	\$ 900.00
7. Legal fees associated with removal of derelict vehicles	\$ 300.00

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Total \$ 38,200.00

will be add'l costs for +  
meter & bounds of encroachment area.

Growth Management Division  
2798 Overseas Highway  
Suite 400  
Marathon, Florida 33050  
Voice: (305) 289-2500  
FAX: (305) 289-2536



Board of County Commissioners  
Mayor Murray E. Nelson, District 5  
Mayor Pro Tem David P. Rice, District 4  
Comm. Dixie M. Spehar, District 1  
Comm. George Neugent, Dist. 2  
Comm. Charles "Sonny" McCoy, District 3

October 6, 2004

Mr. Mike Langston  
118 Shore Lane  
Sugarloaf Key, FL 33042

Subject: Addendum to the Letter of Understanding for the construction of seven affordable housing units on Summerland Key Lot 9 AKA Lot 60.

Dear Mr. Langston:

This letter shall serve as an addendum to the Letter of understanding dated March 16, 2004 by K. Marlene Conaway, Director of Planning and Environmental Resources.

Particularly, Mr. Mike Langston has inquired about the edge of pavement that extends from Center Street onto his property; Lot 9 A/K/A Lot 60 with Real Estate Number 00114790.000100. Mr. Langston specifically wants to know if the purchase by the County of Center Road encroachment would leave enough land to fulfill the density requirements necessary to construct a minimum of seven (7) affordable housing units.

Planning staff has found the triangular overlap to be approximately 1,085 square feet. The overlap reduces the lot size from its original calculated area of 34,848 square feet to 33,763 square feet.

Planning staff has recalculated the maximum net density of the Lot **without** the overlap.

**Total Area Including Road Encroachment**

.80 acres or 34,848 square feet

**Total Area – Encroachment**

33,763 square feet

**20% Open Space –**

$33,763 \times .20 = 6,753$  square feet

**Net Buildable Area (square feet)**

$33,763 - 6,753 = 27,010$

**Net Buildable Area (Acres)**

$27,010 / 43,560$  (square feet in one acre) = .62 acres

**Maximum Net Density – 12 Units/Acre**

$.62 \text{ acres} \times 12 \text{ units} = 7.44 \text{ units or } 7 \text{ units}$

Planning staff has found that the sale of Center Road encroachment to the County would leave enough buildable land to fulfill the density requirements necessary for construction of seven (7) affordable housing units.

Sincerely,

A handwritten signature in cursive script, reading "K. Marlene Conaway".

K. Marlene Conaway  
Director of Planning and Environmental Resources

Cc.: Aref Joulani, Senior Administrator of Development Review

Growth Management Division  
2798 Overseas Highway  
Suite 400  
Marathon, Florida 33050  
Voice: (305) 289-2500  
FAX: (305) 289-2536



Board of County Commissioners  
Mayor Murray Nelson, Dist. 5  
Mayor Pro Tem David Rice, Dist. 4  
Commissioner Dixie Spehar, Dist. 1  
Commissioner George Neugent, Dist. 2  
Commissioner Charles "Sonny" McCoy, Dist. 3

March 16, 2004

Mr. Mike Langston  
118 Shore Lane  
Sugarloaf Key, FL 33042

**SUBJECT: PRE-APPLICATION MEETING LETTER OF UNDERSTANDING for the construction of seven affordable housing units on Summerland Key.**

Dear Mr. Langston:

Pursuant to Section 9.5-43 of the Monroe County Code, this document shall constitute a letter of understanding. On February 23, 2004, a pre-application conference regarding property described as Summerland Key Pt Lot 9 A/K/A Lot 60, approximate mile marker 25 was held at the Monroe County Planning Department offices in Marathon, with RE # 00114790.000100.

Attendees of the meeting included Barbara Mitchell, Miles Wright and Mile Langston (hereafter referred to as "the Applicant"); and Aref Joulani, Senior Administrator of Development Review, Maureen Meehan, Senior Planner, and Ralph Gouldy, Senior Administrator of Environmental Resources (hereafter referred to as "Staff");

Materials presented for review prior to the meeting included:

- a) A Pre-Application Request Form
- b) Property Record Card
- c) Project Description
- d) Proposed floor plan for the units

Issues discussed at the meeting included the following:

1. The applicant is requesting to construct seven (7) affordable housing units. The proposed units will be single family homes in a condominium type ownership. The proposed development is on a parcel of land of approximately 0.8 acres and would be an as-of-right development. The property is currently being used for boat and commercial fishing trap storage. There are no buildings on site. Detached dwelling units are an as-of-right use and attached dwelling units are minor conditional use in the commercial fishing special district land use district.

2. The property has a land use designation of Commercial Fishing Special District 13 (Summerland Key) and has a Future Land Use Map designation of Mixed Use Commercial Fishing (MCF).
3. The site is approximately 0.80 acres. The maximum net density for CFSD-13 is 12 units per buildable acre. The following calculation outlines how the number of units able to be built is determined.

Total Area = .80 acres or 34,848 SF  
 20% Open Space = .15 acres or 6,969 SF  
 Buildable Area = .64 acres  
 Max Net Density = 12 Units

.64 acres  
X 12 units  
 7.68 units or 7 units

4. The applicant inquired about the possibility of subdividing the lot into seven individual lots. The residential density of the land use district is 3 units per acre (43,560 SF). For one unit the lot would have to be at least 14,520 SF. For seven units the development would require 2.3 acres or 101,640 SF of land to meet the density requirements. Therefore, subdividing the lots into seven individual lots would not be a possible option for this proposal.
5. The property must conform to the following setback requirements:  
 Front: 25 feet  
 Rear: 20 feet  
 Side: 10/15 feet-one side yard must be a minimum of 10 feet with both yards equaling 15 feet

The applicant requested that the front yard setback and entrance to the site be taken from John Street, rather than Center Street. After a site visit and discussion with Staff, it has been decided that the front yard setback can be taken from John Street, with the condition that a larger buffer than required is included on Center Street. Landscape requirements are outlined below.

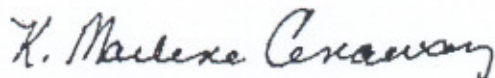
6. Two (2) parking spaces are required for each single family home. One and a half (1.5) spaces are required for each attached unit. The proposed seven (7) single family homes would require fourteen (14) parking spaces on site. The parking cannot be placed in any of the required front, rear, or side yard setbacks.
7. Each building cannot exceed thirty-five (35) feet in height.
8. Section 9.5-377 requires that a Class 'C' district boundary bufferyard be provided between the CFSD district and the URM district to the south. The minimum width of a Class 'C'

bufferyard is ten (10) feet, with five (5) canopy trees, two (2) understory trees, and twenty (20) shrubs per one hundred (100) feet of boundary. In order to allow the front yard setback be taken only on John Street, the following increased bufferyard must be met: seven (7) canopy trees, four (4) understory trees, and twenty two (22) shrubs per one hundred (100) feet.

9. All invasive exotic vegetation must be removed from the parcel prior to issuance of a Certificate of Occupancy.
10. The proposed affordable housing units must meet all of the requirements of Monroe County Code Section 9.5-266. A copy of these requirements has been attached for your convenience.
11. The County is in the process of redefining the parameters of the current residential rate of growth ordinance (ROGO). The new system will be in conjunction with the Tier System. The property was originally proposed as a Tier I property, due to its proximity to an existing CARL boundary. During a workshop looking at specific tier designations it was determined that the property would be best designated as a Tier III due to adjacent development and potential development on site. There was no upland habitat on site.
12. Information on the current ROGO system and point criteria have been included with this letter. At this time all applications are to meet the current ROGO criteria. In the event that the ROGO system changes those applicants within the system will be notified of the changes.

Pursuant to Section 9.5-43 of the Monroe County Code, you are to rely upon the representations set forth in this letter of understanding as accurate under the regulations currently in effect. However, the Planning Department acknowledges that all items required as part of the application for development approval may not have been addressed at the February 23, 2004 meeting, and consequently reserves the right for additional department comment. If you have any questions regarding the content of this letter, or if we may be able to further assist you with your project, please feel free to contact our office at (305) 289-2500.

Sincerely,



K. Marlene Conaway  
Director of Planning and Environmental Resources

Cc: Ervin Higgs, Property Appraiser  
Aref Joulani, Sr Administrator of Development Review  
Ralph Gouldy, Sr Administrator of Environmental Resources  
Maureen Meehan, Senior Planner

Attachments